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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT'S REPLY BRIEF ON APPEAL

APPELLANT: Kazuo Watanabe OLD DOCKET NO: SONY-U0200
NEW DOCKET NO: 09792909-4910
SERIAL NO.: 09/735,760 GROUP ART UNIT: 2137
DATE FILED: December 13, 2000 EXAMINER: Michael Pyzocha
INVENTION: "METHOD AND APPARATUS FOR MANAGING SOFTWARE
USE"

Mail Stop Appeal Brief - Patents
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Appellant submits herewith Appellant's Reply Brief on Appeal under 37 C.F.R. §41.41 in response to the Examiner's Answer mailed on January 19, 2007.

The Commissioner is hereby authorized to charge any deficiency in fees associated with this communication or credit any overpayment to Deposit Account No. 19-3140. A duplicate copy of this sheet is enclosed.

Respectfully Submitted,

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CERTIFICATE OF MAILING

I hereby certify that this original and two copies of this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 19, 2007.

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Dear Sir:

In accordance with the provisions of 37 C.F.R. §41.41, Appellant submits this Reply Brief on Appeal in response to the Examiner's Answer mailed on January 19, 2006. Appellant respectfully submits that the Examiner's assertions are incorrect as a matter of fact and law. Thus, for the reasons set forth below, Appellant respectfully requests that this Board reverse the rejection of claims 1-4, 7-10, and 13-14 under 35 U.S.C. §103(a).

I. STATUS OF CLAIMS:

Claims 1-4, 7-10, and 13-14 are pending in the application. Claims 5, 6, 11, and 12 are canceled.

The present appeal is directed to claims 1-4, 7-10, and 13-14, which were finally rejected in an Office Action dated November 15, 2005. The status of the claims on appeal is as follows:

Claims 1-4, 7-10, and 13-14 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Olsen* (U.S. Patent No. 5,758,069) (“*Olsen*”) in view of *Uchenick* (U.S. Patent No. 4,458,315) (“*Uchenick*”) and further in view of *Coley, et al.* (U.S. Patent No. 5,790,664) (“*Coley*”).

In the Office Action dated November 15, 2006, the Examiner also finally rejected claim 5, however, claim 5 is currently not pending. (*Office Action of 11/15/2006*, page 2). This appears to be a typographical error.

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL:

Claims 1-4, 7-10, and 13-14 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Olsen* (U.S. Patent No. 5,758,069) (“*Olsen*”) in view of *Uchenick* (U.S. Patent No. 4,458,315) (“*Uchenick*”) and further in view of *Coley, et al.* (U.S. Patent No. 5,790,664) (“*Coley*”).

III. ARGUMENT:

Claims 1-4, 7-10, and 13-14 stand rejected under 35 U.S.C. §103(a) by the Examiner as being rendered obvious based on various references. As set forth more clearly below, the rejection of the claims set forth by the Examiner under 35 U.S.C. §103(a) is improper and accordingly the Board should reverse these rejection.

Contrary to the Examiner's assertion, the cited references fail to suggest a first information, which is stored inside a software, that is matched against a received second/third information, which is encoded using a first key and decoded using a second key

Olsen's license is not matched to against a received second/third information that is encoded using a first key and decoded using a second key. *Olsen* sends a group of encrypted information to the user. The encrypted information includes a license certificate, a public/private digital key signature, and an activation key. After the digital key signature is received at the user, it is decrypted using a public key. *Olsen* 10:12-30. The Examiner first argues that *Olsen's* decryption of the digital key signature suggests a first information that is matched against a second/third information, which is encoded using a first key and decoded using a second key. *Examiner's Answer*, page 7, para. 2-3. So, it appears that the Examiner argues that a part of the digital key signature teaches Appellant's claimed first information. The Examiner then goes on to argue that *Olsen's* license is the first information and that *Olsen's* license is matched against a second/third information, yet fails to explain what the license is matched against. *Examiner's Answer*, page 8. In either case, a first information is not matched against a second/third information, which is encoded using a first key and decoded using a second key.

With respect to the Examiner's first argument that *Olsen's* digital key signature allegedly teaches Appellant's claimed first information, *Olsen's* digital key signature is not matched against anything. *Olsen's* digital key signature is encrypted at the sender using a private key and decrypted at the user using a public key. *Olsen* 10:24-26. Thus, it is merely unlocked using the

public key, it is not compared against anything. Nowhere does *Olsen* state or suggest that its digital key signature is matched against anything. Even assuming that *Olsen's* digital key signature suggest Appellant's second/third information, nowhere does *Olsen* suggest that its digital key signature is matched against anything.

With respect to the Examiner's second argument that *Olsen's* license allegedly teaches Appellant's claimed first information, *Olsen's* license is not matched against anything. As stated by the Examiner, *Olsen's* license is bundled with a number of security features (*e.g.*, RSA public/private digital key signature and an activation key) when it is sent to the user. *Examiner's Answer*, page 7, para. 5; *Olsen* 10:12-30. However, these security features are separate items from the license certificate. *Olsen's* license certificate is merely a certificate, which does not include any security features. Nowhere does *Olsen* suggest that its license certificate is matched against anything.

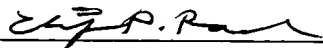
Olsen's separate security features are processed for verification. For example, as described above, the RSA digital key signature can be unlocked using a public key at the user, and presumably *Olsen's* activation key somehow activates something at the user (although *Olsen* fails to describe what its activation key does or how it does it). However, when the security features are processed, there is no case in which a first information is matched against a second/third information, which is encoded using a first key and decoded using a second key. As described above, only *Olsen's* digital key signature relates to something that is encoded using a first key and decoded using a second key, and *Olsen's* digital key signature is not matched against a first information.

As described previously, *Uchenick* and *Coley* also fail to suggest a first information that is matched against a second/third information, which is encoded using a first key and decoded using a second key. Therefore, *Olsen* in view of *Uchenick* and *Coley* fails to disclose or suggest Appellant's claimed invention.

VIII. CONCLUSION:

For the foregoing reasons, Appellant respectfully submits that the rejection posed by the Examiner is improper as a matter of law and fact. Accordingly, Appellant respectfully requests the Board reverse the rejection of claims 1-4, 7-10, and 13-14 .

Respectfully submitted,

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